



April 15, 2015

Honorable Orrin Hatch
Chairman, U.S. Senate Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Re: Business Income Tax Reform (Employee Benefits)

Dear Mr. Chairman,

I am writing to you regarding potential tax reform, with respect to voluntary employee pre-tax deductions to individual health savings accounts (HSAs) – specifically, how to determine both the aggregate cost of applicable employer-sponsored coverage and the excise tax, per the Affordable Care Act. Recent guidance issued by the Internal Revenue Service in Notice 2015-16 specifically addresses and clarifies IRC §49801(d)(2)(B) and (C), which prescribe the rules for determining the cost of applicable coverage for HSAs.

As an employer, we offer full-time employees a choice of health plans, including two considered qualifying high deductible health plans compatible with HSAs. We have gone to great lengths to educate our employees on the value of having an HSA to take advantage of tax savings for regular health care expenses, but also the opportunities to save for future health care expenses. The value of offering our employees a pre-tax payroll deduction option enhances our employees' satisfaction with their health care insurance and employee benefits package.

The intention of this excise tax is to tax a high cost health plan based on the premium cost of the health insurance plan. The HSA is not a cost of health insurance – it is a voluntary savings account with a tax advantage. By including pre-tax employee HSA deductions as a part of the calculation to determine the aggregate cost of health care coverage, this measure would artificially inflate the cost of the underlying actual health care coverage, subjecting us to the excise tax merely based on individual decisions to take advantage, or not, of pre-tax payroll deductions.



For our company, the requirement to include pre-tax HSA contributions would increase the “cost of health care” by 66% at the single level of coverage and by 39% at the family level of coverage. Our solution will be quite simple – we will cease offering our employees the convenient option and advise them that the only way they can take advantage of an HSA is to open their own account and fund it on their own.

The individual tax treatment to our employees remains the same whether they fund their HSA via pre-tax payroll deduction or direct contributions. Therefore, it does not make sense that our company should incur additional tax liability by trying to help our employees save for their health care expenses and encouraging them to do so by offering pre-tax payroll deductions.

Mr. Chairman, I respectfully encourage you to review the conflicting tax treatment of Health Savings Accounts on business under the Affordable Care Act. This inconsistency is not only impractical and unfair to companies and employees, but it also creates unnecessary complexity in the tax code.

Respectfully,

A handwritten signature in black ink, appearing to read "Chuck Fallon", written over a light blue horizontal line.

Chuck Fallon
Chief Executive Officer